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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,398

06/19/2006

Eldad Torbati

64030(303625)

6381

21874

7590

03/18/2010

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EXAMINER

NGUYEN, HIEN NGOC

ART UNIT

PAPER NUMBER

3768

MAIL DATE

DELIVERY MODE

03/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,398	Applicant(s) TORBATI, ELDAD	
	Examiner HIEN NGUYEN	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) 12, 14, 16, 18, 21-23, 30, 53, 55, 57, 59, 62-64, 71 and 80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 15, 17, 19, 20, 24-29, 31-52, 54, 56, 58, 60, 61, 65-70, 72-79 and 81-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/04/2010 and 01/04/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/04/2010 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10, 13, 19-20, 24-29, 40, 43-51, 54, 60-61 and 65-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,219,278 A2 (no designation of the inventor), in view of Tamarkin et al. (US 2004/0138712) and further in view of Castel (US 5,413,550).

3. Addressing claim 1, EP 1,219,278 A2 discloses a treatment system for reducing body perimeter at a region of treatment using an ultrasound apparatus for transmitting

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ultrasound waves to said region of treatment (see [0009-0015]). However, EP 1,219,278 A2 does not disclose an electrical stimulation apparatus using interferential current stimulation and ultrasound wave intensity between 1.5 W/cm^2 to 3 W/cm^2 . In the same field of endeavor, Tamarkin discloses interferential current stimulation (see [0014], [0021], [0027] and claim 23) to provide stimulation to skin and muscle. In the same field of endeavor, Castel discloses ultrasound wave intensity between 0.1 W/cm^2 to 3 W/cm^2 are typically apply for therapeutic purposes (see col. 1, lines 18-37 and col. 3, lines 1-18, therapeutic purposes are treatment of scar tissue, skin, fat, etc.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify EP 1,219,278 A2 to include interferential current stimulation and ultrasound wave intensity between 1.5 W/cm^2 to 3 W/cm^2 as taught by Tamarkin and Castel because this electrical stimulation technique and intensity range is an effective technique to stimulate the skin and muscle and it is well known to one of ordinary skill in the art.

4. Addressing claims 2-10, 13, 19-20, 24-29 and 40, EP 1,219,278 A2 discloses a treatment system for reducing or eliminating cellulite (see [0019]); a treatment system for reducing body fat (see abstract and [0019]); the system is capable of using in human as well as animal; a treatment system used for regions of the body such as legs, thighs, abdomen, etc. (see [0009-0015] and Fig. 1-3); a treatment system for used to reduce or eliminate stretch mark, sagging skin on the abdomen, mid-sections of women and return the appearance before sagging (see [0002-0005]); a pressure exertion apparatus for applying pressure exertion has a ultrasound transducer head (see [0012]); an

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ultrasound transducer head is used for providing a messaging action to the area of treatment (see [0012] and [0013], suction is part of the massaging process); a processor for controlling the operation of the device (see [0018]); applying pressure exertion that is use for mechanical massaging (see abstract, [0012] and [0013], the vacuum pump and the suction are used for mechanical massaging); treatment system is capable of operating at various time period and can varied frequency over time because the system has a processor that control the setting of the frequency and operational time; a transducer head that is capable of using for applying manual pressure or manual massage against the region of treatment and the operator of the apparatus also is capable of applying message to the treatment region using bare hands.

5. Addressing claims 43-51, the system in claim 1-10 perform the methods in claims 43-51 therefore it is rejected for the same reason.

6. Addressing claim 54, the system in claim 13 performs the methods in claims 54 therefore it is rejected for the same reason.

7. Addressing claims 60-61 and 65-70, the system in claim 19-20 and 24-29 perform the methods in claims 60-61 and 65-70 therefore it is rejected for the same reason.

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8. Claims 11, 15, 17, 31-32, 35-36, 38, 52, 56, 58, 72-73, 76-77 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,219,278 A2 (no designation of the inventor), in view of Tamarkin et al. (US 2004/0138712), further in view of Castel (US 5,413,550) and Ella et al. (US 2004/0260209).

9. Addressing claims 11, 15 and 17, EP 1,219,278 A2, Tamarkin and Castel do not explicitly disclose an operational frequency of an ultrasound apparatus. However, Ella in the same field of endeavor discloses ultrasound apparatus operates at frequency of 1-4 MHz (see [0020-0022]). It would have been obvious to one ordinary skill in the art at the time of the invention to modify the system disclose by EP 1,219,278 A2 to operate at a frequency of 1-4 MHz as taught by Ella because the frequency range of 1 to 4 MHz is a safety standard used for massaging and reducing body fat and cellulites. Different region of skin has a specific safety standard for frequency range.

10. Addressing claims 31-32 and 35-36, EP 1,219,278 A2 does not explicitly disclose an electrical stimulation apparatus for providing electrical stimulation to muscles surrounding the area of treatment operates between 5ma to 90ma and between 5hz to 150hz. Ella discloses an electrical stimulation apparatus for providing electrical stimulation to muscles surrounding the area of treatment operates between 5ma to 90ma and between 5hz to 150hz (see [0225] and [0227]). It would have been obvious to one ordinary skill in the art at the time of the invention to modify EP 1,219,278 A2 system to include an electrical stimulation apparatus for providing electrical stimulation

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to muscles surrounding the area of treatment operates between 5ma to 90ma and between 5hz to 150hz as taught by Ella because electrical stimulation provide stimulation to muscles surrounding the area of treatment commonly operate at this current and frequency range.

11. Addressing claim 38, Ella discloses a gel and an ultrasound apparatus are use on an area of treatment to reduce friction between ultrasound apparatus and the skin (Ella [0020]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify EP 1,219,278 A2 system to use a gel as taught by Ella because using the gel on the skin would reduce the friction between the ultrasound apparatus and patient's skin to prevent pain to the patient cause by friction.

12. Addressing claim 52, the system in claim 11 performs the method in claim 52 therefore it is rejected for the same reason.

13. Addressing claims 56 and 58, the system in claims 15 and 17 perform the method in claims 56 and 58 therefore it is rejected for the same reason.

14. Addressing claims 72-73, the system in claims 31-32 perform the method in claims 72-73 therefore it is rejected for the same reason.

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15. Addressing claims 76-77, the system in claims 35-36 perform the method in claims 76-77 therefore it is rejected for the same reason.

16. Addressing claim 79, the system in claims 25, 27-28 and 38 perform the method in claim 79 therefore it is rejected for the same reason.

17. Claims 33-34, 37, 74-75 and 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,219,278 A2 (no designation of the inventor), in view of Tamarkin et al. (US 2004/0138712), in view of Castel (US 5,413,550), in view of Ella et al. (US 2004/0260209) and further in view of Hansjurgens (US 5,573,552).

18. Addressing claims 33-34 and 37 EP 1,219,278 A2, Tamarkin, Castel and Ella do not disclose a stimulation technique called MF (medium frequency) stimulation. Hansjurgens in the same field of endeavor discloses a system uses MF stimulation for electrotherapy of the treatment area such as muscle and skin for cells locate in a deeper region (see col. 2, lines 57-67, col. 5, lines 10-20 and abstract). The system is capable of varying the frequency inversely proportional to the variation in intensity because the system has all the structures such as the processor and switch to change frequency and intensity. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify's EP 1,219,278 A2 system to use the MF stimulation technique as taught by Hansjurgens because it is one of many techniques use for

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muscle, skin stimulation and MF stimulation is a more effective way of treating cells that are located deeper inside a human body.

19. Addressing claims 74-75, the system in claims 33-34 performs the method in claims 74-75 therefore it is rejected for the same reason.

20. Addressing claim 78, the system in claim 37 performs the method in claim 78 therefore it is rejected for the same reason.

21. Claims 39 and 81-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,219,278 A2 (no designation of the inventor), in view of Tamarkin et al. (US 2004/0138712), in view of Castel (US 5,413,550) and further in view of Cosman (US 6,405,072).

22. Addressing claims 39 and 81-82 EP 1,219,278 A2, Tamarkin and Castel disclose substantially all claim limitations set forth in claims 1 and 43. Also, Tamarkin discloses electrical stimulation (see [0014], [0021], [0027] and claim 23). It is inherent the system has a processor in order to control the electrical stimulation. However, they do not disclose a camera. Cosman disclose a camera used for viewing and record the medical treatment; (see abstract and col. 19). The system in claim 39 performs the method in claim 81. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify EP 1,219,278 A2 system to include a camera use for viewing and

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recording the medical treatment as taught by Cosman because with a camera operator can view and record the treatment.

23. Claims 41-42 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,219,278 A2 (no designation of the inventor), in view of Tamarkin et al. (US 2004/0138712), Castel (US 5,413,550) and further in view of Lia et al. (US 2004/0019286).

24. Addressing claims 41-42, EP 1,219,278 A2, Tamarkin and Castel disclose substantially all claim limitations set forth in claim 1. However, they do not disclose a measuring apparatus and a pressure gauge. Lia discloses a measuring apparatus and a pressure gauge for measuring the pressure (see [0014-0016]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify EP 1,219,278 A2 system to include a measuring apparatus and a pressure gauge for measuring pressure as taught by Lia because the system applies pressure during a massage and the measuring apparatus and pressure gauge allow the system to measure the applied pressure.

25. Addressing claim 84, it would have been obvious to one of ordinary skill in the art at the time of the invention that the system in claims 1, 41 and 42 is used to perform the measuring method of claim 84 because the system has the measuring structures such as a measuring apparatus, pressure gauge and a better treatment can be provided if

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the apply pressure by the system is being measured. Claim 84 is rejected for the same reason as claims 1, 41 and 42.

Response to Arguments

Applicant's arguments filed 02/04/2009 have been fully considered but they are not persuasive. Applicant argues Tamarkin fails to teach a simultaneous application of ultrasound and interferential stimulations to the region of treatment. Applicant argument is not persuasive because Tamarkin disclose interferential stimulation to the skin, muscle and nerve (see [0010], [0014] and [0040]). Further, examiner relies on EP 1,219,278 A2 to disclose an ultrasound apparatus for sending ultrasound wave to the skin/cellulite therefore EP 1,219,278 A2 combines with Tamarkin disclose the structures that are capable of simultaneously apply ultrasound stimulation and electrical interferential stimulation to the region of treatment. Applicant argues it would not have been obvious to one of ordinary skill to combine EP 1,219,278 A2 and Tamarkin because Tamarkin apparatus is used for an enhanced delivery of active substances into the skin. Applicant argument is not persuasive because Tamarkin's apparatus is also used for treatment/stimulation of skin such as cellulite ([0040]).

Applicant argues all the references do not disclose ultrasound wave intensity between 1.5 W/cm^2 to 3 W/cm^2 . Examiner relies on new reference to make the rejection. Please see the rejection above.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,190,315 and US 4,767,402.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEN NGUYEN whose telephone number is (571)270-7031. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. N./
Examiner, Art Unit 3768

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768